

JEFFREY H. WOOD,
Acting Assistant Attorney General
SETH M. BARSKY, Chief
S. JAY GOVINDAN, Assistant Chief
JOHN H. MARTIN, Trial Attorney
U.S. Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section
999 18th Street
South Terrace, Suite 370
Denver, CO 80202
(303) 844-1383
(303) 844-1350 (fax)
Email: john.h.martin@usdoj.gov

Additional attorneys listed on signature page

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

COTTONWOOD ENVIRONMENTAL)	CV 12-45-M-DLC
LAW CENTER,)	
)	
Plaintiffs,)	STIPULATED SETTLEMENT
vs.)	AGREEMENT and [PROPOSED]
)	ORDER
UNITED STATES FOREST)	
SERVICE; LEANNE MARTEN, in her)	
official capacity as Regional Forester)	
for the U.S. Forest Service, Region One,)	
)	
Defendants.)	
)	

This Stipulation is entered into by Defendants Leanne Marten¹ and the United States Forest Service and Plaintiff Cottonwood Environmental Law Center. By and through their undersigned counsel, the Parties state as follows:

WHEREAS the Court entered Final Judgment in this case on May 16, 2013 (Docs. 36, 37); and

WHEREAS, the parties timely appealed the Court's Order and Judgment and all appellate proceedings concluded on October 11, 2016 (Doc. 59), and the case remanded to this Court by operation of the Ninth Circuit Court of Appeals' Opinion, dated June 17, 2015 (Doc. 54);

WHEREAS, counsel for Plaintiff and Defendants ("the Parties") have subsequently engaged in good faith and confidential settlement negotiations concerning Plaintiff's claims for attorneys' fees and costs; and

WHEREAS, Plaintiff and Defendants have reached an agreement as to an appropriate settlement of Plaintiff's claim for fees and costs and agree that settlement of this action in this manner is in the public interest and is an appropriate way to resolve Plaintiff's claim for fees and costs; and

¹ Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Leanne Marten, in her official capacity as Regional Forester for Region One of the United States Department of Agriculture Forest Service, is substituted for Faye Krueger as a defendant in this case. Ms. Marten was named to the Regional Forester position on July 14, 2015.

WHEREAS, Plaintiff and Defendants enter the Agreement below without any admission of fact or law, or waiver of any claims or defenses, factual or legal, except as specified in the Agreement;

WHEREAS, the parties agree that it is in the interest of the parties and judicial economy to settle the Plaintiff's claim for attorneys' fees and costs in this action without additional litigation; and

WHEREAS the parties, through their authorized representatives, enter this Stipulation without any admission of fact or law, or waiver of any claims or defenses, factual or legal.

NOW THEREFORE, the parties, for good and valuable consideration, the adequacy of which is hereby acknowledged, hereby stipulate and agree as follows:

1. Defendants agree to settle all of Plaintiffs' claims for costs and attorneys' fees in the above-captioned litigation for a total of \$300,000.00. Defendants agree to pay the entire amount by electronic funds transfer to Matt Kenna Attorney Client Trust Account;
2. Within ten (10) days of entry of an order approving this Agreement, Plaintiffs will provide Defendants with the information necessary to effectuate this payment in a timely manner;
3. Defendants agree to submit all necessary paperwork for the processing of the payment described in Paragraph 1 above to the Department of the Treasury's

Judgment Fund Office, pursuant to 16 U.S.C. § 1540(g)(4), within ten (10) business days of receiving the information necessary for processing the electronic funds transfer described in Paragraph 2 above;

4. Plaintiff agrees to accept payment of \$300,000.00 in full satisfaction of any and all claims for attorneys' fees and costs of litigation to which Plaintiff is entitled in the above-captioned litigation, through and including the date of this agreement, including any claim that may be held or asserted by Nolan Salix, who is no longer a party to this case (Docs. 52, 53);

5. Plaintiff agrees that receipt of this payment from Defendants shall operate as a release of Plaintiff's claims for attorneys' fees and costs in this matter, through and including the date of this Agreement, including any claim that may be held or asserted by Nolan Salix;

6. By this Agreement, Defendants do not waive any right to contest fees claimed by Plaintiff or Plaintiff's counsel, in any future litigation, or continuation of the present action. Further, this stipulation as to attorneys' fees and costs has no precedential value and shall not be used as evidence in any other attorneys' fees litigation; and

7. Nothing in this Stipulation shall be interpreted as, or shall constitute, a commitment or requirement that Defendants are obligated to pay funds exceeding

those available, or take any action in contravention of the Anti-Deficiency Act, 31 U.S.C. §1341, or other appropriations law.

8. This Agreement shall apply to and be binding upon the parties, their members, delegates and assigns. The undersigned representatives of the parties certify that they are fully authorized by the party or parties whom they represent to enter into the terms and conditions of this Agreement and to legally bind the parties to it.

9. Plaintiff's attorneys are receiving funds in trust for Plaintiff, and Plaintiff agrees to this procedure. Plaintiff and its attorneys agree to hold harmless Defendants in any litigation, further suit, or claim arising from the payment of the agreed-upon settlement amount pursuant to this Agreement.

10. This Agreement represents the entirety of the parties' commitments with regard to settlement. The terms of this Agreement shall become effective upon approval by this Court of this Agreement.

Accordingly, the parties jointly and respectfully request entry of this stipulation and the order below.

Respectfully submitted this 27th day of April, 2017.

/s/John Meyer (by permission)
John Meyer, MT Bar # 11206
Cottonwood Environmental Law Center
P.O. Box 412
Bozeman, MT
(406) 546-0149

John@cottonwoodlaw.org

Matt Kenna, *pro hac vice*
Public Interest Environmental Law
679 E. 2nd Ave., Ste. 11B,
Durango, CO 81301.
(970) 749-9149
(970) 797-9133 (f)
matt@kenna.net

Attorneys for Plaintiff

JEFFREY H. WOOD,
Acting Assistant Attorney General

/s/John H. Martin
JOHN H. MARTIN,
Trial Attorney
U.S. Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section
999 18th Street
South Terrace, Suite 370
Denver, CO 80202
(303) 844-1383
(303) 844-1350 (fax)
Email: john.h.martin@usdoj.gov

MARK SMITH,
Assistant United States Attorney
P.O. Box 1478
Billings, MT 59103
2929 Third Ave. North, Suite 400
Billings, MT 59101
Tel: (406) 247-4667
Fax: (406) 657-6989

Attorneys for Defendants

Pursuant to the stipulation of the parties, IT IS SO ORDERED.

Dated this _____ day of _____, 2017.

DANA L. CHRISTENSEN
U.S. DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on April 27th, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such to the attorneys of record.

/s/John H. Martin
John H. Martin